

Whereas, Federal district courts, with the acquiescence of the United States Supreme Court, continue to order states to levy or increase taxes to comply with Federal mandates; and

Whereas, these court actions violate the Constitution of the United States and the legislative process; and

Whereas, The time has come for the people of this great nation and their duly elected representatives in State government to reaffirm in no uncertain terms that the authority to tax under the Constitution of the United States is retained by the people, who by their consent alone do delegate such power to tax explicitly to those duly elected representatives in the legislative branch of government whom they choose, such representatives being directly responsible and accountable to those who have elected them; and

Whereas, Several states have petitioned the Congress of the United States to propose an amendment to the Constitution of the United States; and

Whereas, As previously introduced in Congress, the amendment seeks to prevent Federal courts from levying or increasing taxes without representation of the people and against the people's wishes; therefore be it

Resolved (the House of Representatives concurring), That the Congress prepare and submit to the several states an amendment to the Constitution of the United States to add a new article providing as follows: "Neither the Supreme Court nor any inferior court of the United States shall have the power to instruct or order a state or a political subdivision, to levy or increase taxes"; and be it further

Resolved, That this application constitute a continuing application in accordance with Article V of the Constitution of the United States; and be it further

Resolved, That the General Assembly of the Commonwealth of Pennsylvania also propose that the legislatures of each of the several states comprising the United States, that have not yet made a similar request, apply to the Congress requesting enactment of an appropriate amendment to the Constitution of the United States and apply to the Congress to propose such an amendment to the Constitution of the United States; and be it further

Resolved, That copies of this resolution be transmitted to the President and Vice President of the United States, to the presiding officers of each house of Congress, to the presiding officers of each house of Legislature in each of the states in the union and to each member of Congress from Pennsylvania.

INTRODUCTION OF BILLS AND JOINT RESOLUTIONS

The following bills and joint resolutions were introduced, read the first and second times by unanimous consent, and referred as indicated:

By Mr. BINGAMAN:

S. 3277. A bill to amend the National Energy Conservation Policy Act to enhance and extend authority relating to energy savings performance contracts of the Federal Government; to the Committee on Energy and Natural Resources.

By Mr. BINGAMAN:

S. 3278. A bill to authorize funding for nanoscale science and engineering research and development at the Department of Energy for fiscal years 2002 through 2006; to the Committee on Energy and Natural Resources.

By Mr. FEINGOLD (for himself, Mr. JEFFORDS, and Mr. LEAHY):

S. 3279. A bill to amend the Richard B. Russell National School Lunch Act to authorize the Secretary of Agriculture to carry out pilot projects to increase milk consumption and reduce the cost of milk served to children; to the Committee on Agriculture, Nutrition, and Forestry.

STATEMENTS ON INTRODUCED BILLS AND JOINT RESOLUTIONS

Mr. BINGAMAN:

S. 3277. A bill to amend the National Energy Conservation Policy Act to enhance and extend authority relating to energy savings performance contracts of the Federal Government; to the Committee on Energy and Natural Resources.

ENERGY EFFICIENT COST SAVINGS IMPROVEMENT ACT OF 2001

Mr. BINGAMAN. Mr. President, I rise today to introduce important legislation, to amend the National Energy Conservation Policy Act of 1986. This legislation, the "Energy Efficient Cost Savings Improvement Act of 2001" will improve the current law by enhancing and extending the authority relating to energy savings performance contracts of the Federal Government. The benefit to the taxpayer will be not only the realization of greater cost savings as they pertain to older, inefficient Federal buildings but, more importantly, the reduction in the waste of monies spent trying to improve these buildings when other, more cost effective alternatives are available.

The National Energy Conservation Policy Act, as amended by the Energy Policy Act of 1992, established a mandate for energy savings in Federal buildings and facilities. Aggressive energy conservation goals were subsequently established by Executive Order 12902, stating that, by 2005, Federal agencies must reduce their energy consumption in their buildings by 30 percent per square foot when compared to 1985 levels. Executive Order 13123 increased this goal to 35 percent by 2010.

To help attain these objectives, the Energy Policy Act of 1992 created Energy Savings Performance Contracting, ESPC, which offered a means of achieving this energy reduction goal at no capital cost to the government. That's right—no capital cost to the government, since ESPC is an alternative to the traditional method of Federal appropriations to finance these types of improvements in Federal buildings. Under the ESPC authority, Federal agencies contract with energy service companies, ESCO, which pay all the up-front costs. These costs relate to evaluation, design, financing, acquisition, installation, and maintenance of energy efficient equipment; altered operation and maintenance improvements; and technical services. The ESCO guarantees a fixed amount of energy cost savings throughout the life of the contract and is paid directly from those cost savings. Agencies retain the remainder of the cost savings for themselves and, at the end of the contract,

ownership of all property, along with the additional cost savings, reverts to the Federal government. Currently, contracts may range up to 25 years. Over the entire contract period, Federal monies are neither required nor appropriated for the improvements.

But, as innovative as the ESPC alternative may be, there is one area in which it falls short—and that is, how to avoid wasting valuable funds improving energy efficiency in a building that has long since passed its useful life. How do you justify energy conservation measures in buildings that are in constant need of maintenance or repair? Facilities that, no matter how much money is invested for renovation, will never meet existing building code requirements? You may save money by improving energy efficiency, but then turn around and reinvest even larger amounts in operating and maintaining a very old facility. Somewhere there has to be a point where we decide there must be other alternatives—and that is exactly what my legislation offers.

The most important element of my legislation is in the way it proposes to fund the construction of replacement Federal facilities. The legislation builds upon the existing Energy Savings Performance Contracting and takes it one logical step further—to include savings anticipated from operation and maintenance efficiencies of a new replacement Federal building. Perhaps the easiest way to explain the benefits of this change is by citing an example. In my home state of New Mexico, the Department of Energy Albuquerque Operations office resides in a complex of buildings constructed originally as Army barracks during the Korean War. Although these facilities have been renovated and modified throughout the years, they remain energy inefficient and require high maintenance and operation costs when compared to more contemporary buildings. What's more, over the next seven years, the Operations office will institute additional modifications to meet compliance requirements for seismic, energy savings, and other facility infrastructure concerns (maintenance, environmental, safety and health, etc.) at a cost of \$34.2 million. Even with these modifications, we end up with a modernized 50-year-old building that will continue to require expensive maintenance dollars. The estimate to replace the office complex with a new facility, by the way, is \$35.3 million. While Congress cannot afford to appropriate funds to build a new facility, we're willing to spend—no, we're forced to waste—almost as much in maintaining an old one.

As requested by the National Defense Authorization Act for FY2000, the Department of Energy conducted a feasibility study for replacing the Albuquerque Operations office using an ESPC. The results of the study are enlightening, for it demonstrated that by using anticipated energy, operations, and maintenance efficiencies of a new